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24 JUL 1978

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MEMORANDUM FOR THE RECORD

FROM: [REDACTED]

Chief, Real Estate Branch, RECD/OL

SUBJECT: Review of S.2525

1. [REDACTED] In response to a memorandum from Mr. John [REDACTED] the undersigned met on the afternoon of 18 July 1978 with the following personnel present: [REDACTED], L&PLD, [REDACTED], C/PMS/DDS&T, [REDACTED] Contract Staff, OD&E/DDS&T, and [REDACTED] OL/PMS. The purpose of the meeting was to review comments which had been forwarded to CIA by an attorney in the Federal Bureau of Investigation who was reviewing S.2525 on behalf of that agency. This gentleman had a number of questions which he felt were applicable, not only to the FBI portion of the bill, but might also be applicable to Title 4, i.e., CIA's basic authorities. It was also brought out that RECD's latest comments on S.2525 dated 19 June 1978 had not, for some reason, found its way into the Agency's chain of review for this particular bill inasmuch as [REDACTED] stated he had never seen the memorandum.

2. [REDACTED] A number of problems were discussed relating to specific procurement authorities and responsibilities, but inasmuch as these do not directly impact upon RECD, these questions will not be discussed herein. The problems brought to our attention impacting upon real property are typified by the following:

a. The statutory bar on making advance payments for material, services, rents, etc., (31 U.S.C. 529 and 41 U.S.C. 255)- there is nothing in the current version of S.2525 which would authorize the Agency or any member of the Intelligence community to make such payments. I pointed out to those present that we habitually make such payments today and have done so at least for the 12 years of my association with CIA. Such advance payments can take many forms, e.g., authorization

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negotiate, and maintain real property. In the case of the Safehousing operation, it is presumed that we operate under

[REDACTED]

acknowledged that this was indeed a problem and one which should be addressed in the Agency's final review and commentary upon S.2525.

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b. Bar upon entering contracts beyond the term of a fiscal year (31 U.S.C. 665a and 41 U.S.C. 11a). Again, the discussion turned to the customs and practices of the Agency of many years to enter into long-term leases and/or other contractual relationships beyond the fiscal year in which the lease and/or contract commenced. Again, we felt in cases involving [REDACTED] the CIA, there was no great problem inasmuch as these agencies must have such authority in their enabling legislation. Again,

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[REDACTED]

or the rationale of operational needs. If for instance, the request for delegation of authority which is in the process of being transmitted to the Administrator of GSA is approved, the Agency would then be able to directly negotiate leases to meet strictly administrative requirements. Would we then be subject to the appropriate provisions of 31 and 41 U.S.C.? As with the prohibition on making advance payments mentioned above, it would be impossible to operate without the ability to enter into long-term leases. It is impractical to budget for the term of a lease and also for contingencies to cover nonperformance in the event we desire to terminate a lease prematurely. This, then, is another problem which needs to be brought to the attention of those conducting the final review of the drafting legislation.

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c. There are two other areas involving Real Estate. One is the bar on leases in the District of Columbia (40 U.S.C. 34) and bar on purchases without authorizing legislation

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(41 U.S.C. 14). The prohibition on acquiring leases in the District of Columbia without prior approval from Congress

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operations. We did, however, feel that the bar on purchases of land without specific authorizing legislation could, at some point in our history, cause a problem. While none of us could envision an immediate requirement to purchase land, it was felt nonetheless that an exemption from this particular statute was advisable.

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3. [REDACTED] While no answers to the many questions raised were apparent, the meeting was of value to all participants. The most chilling thought concerns the approaching day when GAO begins to audit Agency activities and asks the same questions for which none of us had ready answers. I am personally of the opinion that Section 8 of the current Act which commences with words "notwithstanding any other provision of law..." and which has been the justification for past actions, should appear in S.2525 to resolve future questions of this nature. I advised [REDACTED] that I would obtain from GSA and FBO the particular sections of their enabling legislation which exempted them from the provisions of the various U. S. Codes mentioned above. At this point, after one hour and three quarters, the meeting was adjourned.

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